

**ANNUAL REPORT
to the Commissioner
Department of Environmental Protection
July 1, 1993 -- June 30, 1994**

I. Introduction

The Board of Underground Tank Installers was established in 1985 by 32 MRSA Chapter 104-A and its authorities expanded and modified by subsequent amendments in 1987, 1989, 1990, and 1992. According to the statute, the purpose of the Board is as follows:

"In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons, to assure the highest degree of professional conduct on the part of underground oil and underground hazardous substance storage tank installers and to assure the availability of underground oil and underground hazardous substance storage tank installations of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering underground oil and underground hazardous substance storage tank installation services."

Thus, the Board has two major responsibilities: (1) certifying underground tank installers and underground gasoline tank removers, and (2) taking disciplinary actions against installers and removers who violate its enabling statutes and rules. By law, the Board is also charged with submitting an annual report to the Commissioner of the Department of Environmental Protection (32 MRSA Section 10004(6)). This report is designed to fulfill that mandate for FY 93/94. It covers the following major subject areas:

- Membership and Staffing;
- New Certifications and Testing;
- Recertification and Continuing Education;
- Processing of Complaints;
- Rulemaking and Program Development;
- Newsletter;
- Data management; and
- Financial Statement

II. Membership and Staffing

Members of the Board are as follows:

- Wayne Gifford (Maine Oil Dealers' Association) - Term expires 12/31/94
- Robert Judkins (Maine Oil and Solid Fuel Board) - Term expires 12/31/96
- Rance Knowles (Maine Fire Chief Association) - Term expires 12/31/94.
- Gerald Lapointe, Sr., chair (certified installer) - Term expires 12/31/95.
- Joseph (Bruce) Probert (Me. Chamber of Commerce) - Term expires 12/31/95.
- Alan Prysunka (DEP) - Term expires 12/31/96.
- Harry Stetson (Public Member) - Term expires 12/31/95.

Wayne Gifford and Robert Judkins are new members this year. Mr. Gifford was appointed September 24, 1993 to complete the term of Richard Tuttle from the Maine Oil Dealers' Association, who resigned to devote needed time to his business. Mr. Judkins was appointed May 24, 1994 to replace Steven Jacobson as representative from the ME Oil and Solid Fuel Board. Former Chairman Jacobson's maximum two terms ended December 31, 1993. James Hynson and Theresa Scott continued to provide staffing to the Board. Additional sporadic support was provided by staff from the Department of Environmental Protection, including W. David McCaskill, Diana McLaughlin, Beth DeHaas, Denise Fournier, Rick Haffner, and Tim Wright. Support from the Office of the Attorney General was provided by Dennis Harnish.

III. New Certifications and Testing

This section includes discussions on (A) number of installers certified, (B) written exams, (C) on-site exams, (D) upgrades, and (E) apprenticeships.

A. Number of Installers Certified

The number of certified installers is 184, compared to 209 that were certified at the end of FY 92/93. At present, this includes 180 who hold Class 2 Oil Tank Installer Certificates, and four (4) Class 3 Oil Tank Installers. During the year, five (5) new installers became certified. Twenty-seven (27) elected not to apply for recertification once their old certificates expired. Two (2) installers passed away.

There are no underground gasoline tank removers in Maine. One (1) individual took and passed the initial underground tank remover examination this year, and has scheduled an on-site examination.

No underground hazardous substance tank installers were certified by the Board. As of the end of this year, the Board received one (1) application for underground hazardous substance tank installer certificates in the eight (8) years the program has been effective. This applicant is awaiting the opportunity to take an initial examination. In the event a facility owner would wish to install or replace an underground hazardous substance tank, a legally qualified person would not be available. We continue to suggest the DEP consider seeking amendment of its statutes and/or rules to allow such an installation or replacement to proceed under the supervision of a professional engineer and underground oil tank installer while the Board would seek abolishment of this distinctly undemanded program.

B. Written Exams

No effort was spent in FY 93/94 updating written exams. We have heard of a number of revisions to some of the documents we use for study materials, including the Petroleum Equipment Institute's recommended practice, fire codes, and tank manufacturers' installation instructions. As time permits, these new documents will be incorporated into the examinations.

We offered two (2) written examinations during FY 93/94: December 8, 1993 and April 14, 1994. In all cases, the Board offered the initial oil tank installer examination, the final examinations for Classes 2 and 3 underground oil tank installer certification, the underground gasoline tank remover examination, and

the underground hazardous substance tank installer examination. Results of those examinations are provided in Table 1. A total of 12 applicants took the exams, including four (4) initial oil tank installer exams, seven (7) Class 2 oil tank installer final exams, no Class 3 oil tank installer final exams, and one (1) gasoline tank remover exam. Of these nine (9) passed while three (3) failed.

Exam	12/8/93			4/27/94			Total		
	Pass	Fail	Total	Pass	Fail	Total	Pass	Fail	Total
Initial Oil Tank Installer	2	1	3	0	1	1	2	2	4
Class 2 Final	3	1	4	3	0	3	6	1	7
Class 3 Final	0	0	0	0	0	0	0	0	0
Gasoline Tank Remover	0	0	0	1	0	1	1	0	1
Haz. Sub. Tank Installer	0	0	0	0	0	0	0	0	0
Total	5	2	7	4	1	5	9	3	12

Table 1. Results of written examinations given by the Board of Underground Storage Tank Installers FY 93/94.

C. On-Site Exams

1990 amendments to the Board's enabling legislation and rules eliminated the need to conduct on-site examinations for applicants for oil tank installer certificates. While on-site exams remain required for underground hazardous substance tank installers and underground gasoline tank removers, no applicants for underground hazardous substance tank installer certificates took the written examination in FY 93/94, and thus none were eligible for the on-site examination. One (1) applicant passed the underground gasoline tank remover examination and scheduled an on-site exam with the Board's staff for early in FY 94/95.

D. Upgrades

Two Class 3 Underground Tank Installers completed apprenticeship requirements and passed the final examination to be upgraded to Class 2 Underground Tank Installers.

E. Apprenticeships

By virtue of passing the initial oil tank installer examination, two (2) applicants qualified as oil tank installer apprentices this year, in addition to the 56 which qualified in previous years. Seven of those were eligible to take the final exam last year. Of those, six (6) passed the final exam. Twelve (12) apprentices elected to renew their apprentice certificates or have certificates which are current. Two of these have fulfilled their apprenticeship requirements and are now qualified for the final examination.

F. Variances

1990 amendments to the Board's enabling legislation instituted a variance process for individuals to obtain variances for the apprenticeship portion of the certification process (32 MRSA Sec. 10010.3-A.D; 06-481 CMR c. 3 Sec. 4.D). During FY 93/94, the Board had no formal applications for variances.

IV. Recertification and Continuing Education

One hundred seventy-nine installers applied and were granted renewal certificates, while twenty-nine (29) did not reapply. Five (5) individuals applied but had not met the Board's continuing education requirement, and thus disciplinary action is ensued. All were granted a six month probation to make up education with payment of a small civil penalty. Two have subsequently met the education requirements and have been recertified. The other three (3) probationary periods have not yet been completed.

Continuing education opportunities accredited by the Board in FY 93/94 are listed in Table 2. In addition, educational opportunities approved in FY 92/93 continued to be available included an 8 (eight) hour OSHA course (accredited for 3 credit hours) sponsored by JetLine, Inc.

PROGRAM	SPONSOR	DATES APPR./HELD	HOURS_APPR.	NO. SESSIONS
OSHA 1910-1926/	ME Dept. of Labor Lynn Lamstein	9/16/93	8	Unspec.
OSHA Basic Health/Safety Refresher	Alan Lyscars Field Svcs.	10/28/93	3	Unspec.
How to Install Tanks & Piping (Renewal)	PIM Enterprises	1/26/94	6	Unspec.
Contract. Guide to Closure (Renewal)	PIM Enterprises	1/27/94	4	Unspec.
Contractor Day 1994	NH Environmental Svcs.	2/994	2	1
BUSTI Training	MODA	3/1-2/94	6	2
OSHA Refresher Paul Thompson	Southern Me Tech. Coll.	3/11/94	3	Unspec.
Total Containment Enviroflex	Gould Equipment Co.	3/11/94	2	Unspec.
Veeder-Root UST Monitoring Systems	Gould Equipment Co.	3/11/94	2	Unspec.
Hazardous Waste Operations (40 Hrs)	G Lapointe Webber	6/17/94	8	Unspec.
Emergency Response Tech. (24 Hrs)	G Lapointe Webber	6/17/94	5	Unspec.
Hazardous Waste Operations (8 Hr.)	G Lapointe Webber	6/17/94	2	Unspec.
Emergency Response Tech. (8 Hr.)	G Lapointe Webber	6/17/94	2	Unspec.
Advanced Polymer Tech Poly/Piping	APT Piping D. Croxford	6/17/94	2	1
Total			55	

Table 2. Continuing education opportunities accredited by the Board of Underground Storage Tank Installers FY 93/94.

The Board continued to express some concern that several programs appeared to be more "sales" and less "educational" oriented than they should. As a result, Department staff are beginning to seek Federal funds to increase the amount of State sponsored training.

V. Processing of Complaints

Disciplinary actions involving sixteen (16) investigations and fifty (50) alleged violations were processed and resolved in FY 93/94, including seven (7) held over from 1992/93. A summary of the Board's actions in these matters is presented in Appendix A.

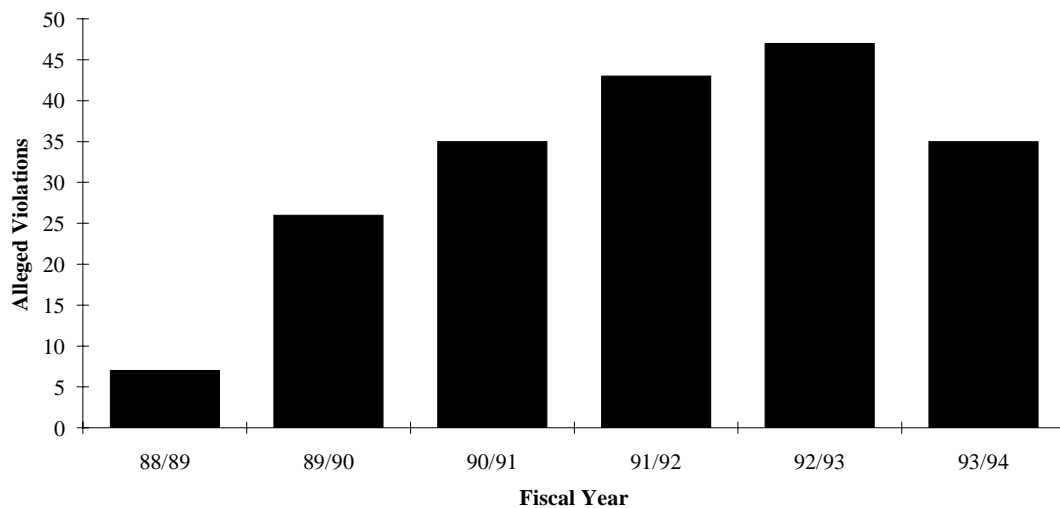
Seventeen (17) complaints involving thirty-five alleged violations were received in FY 93/94. Investigations which remain unresolved at the end of the year are listed in Table 3.

Principle Violation	Year	No.	Date Received	Date Sum.	Action Date	Board Action
38MRSA565.1.A	1994	10	3/29/94	5/11/94	6/17/94	Hearing
38MRSA564.1.A	1994	11	4/27/94	6/6/94	6/17/94	CA
38MRSA564.1.A	1994	12	4/27/94	6/7/94	6/17/94	Hearing
38MRSA564.1.A	1994	13	4/27/94	6/7/94	6/17/94	Hearing
38MRSA564.1.A	1994	14	4/27/94	6/7/94	6/17/94	Hearing
06-481CMR1.4.B(1)	1994	15	6/1/94			
06-481CMR1.4.B(1)	1994	16	6/1/94			
06-481CMR1.4.B(1)	1994	17	5/16/94			

Table 3. Maine Board of Underground Storage Tank Installers ongoing enforcement actions as of June 30, 1994.

Figure 1 shows the number of alleged violations investigated by the Board and its staff since promulgation of the Board's rules in August, 1988. This graph indicates that for the first time since the program's inception, the number of alleged violations investigated decreased after several years of increases.

Figure 1. Alleged Violations Received as Complaints



VI. Rulemaking and Program Development

No work on rulemaking or program development occurred last year. A few errors have been found in the rules which will require minor rulemaking effort to correct..

VII. Newsletter

One of the initial benefits of certification of installers was the development of an ability by the State to communicate with installers via a newsletter. Two issues of "The Maine Installer" were published during FY 93/94. Unfortunately, it has been impractical to keep to our original hope of a quarterly newsletter due to conflicting demands on staff. However, the newsletter appears to be well received whenever it can be published.

VIII. Data Management

We continue to use the databases developed previously in EXCEL for our data management needs. All the Board's staff continued to provide input into the development of an upgraded version of UNO (the replacement version is called "TANKS") (DEP underground tank registrations) which would be designed to work in the database software entitled ORACLE. We appreciate this opportunity and hope the ultimate system will serve our needs and can replace our temporary efforts in EXCEL. As we understand it, development of this system continues and we are available to test it out once it becomes on-line.

IX. Financial Statement

The Board's financial statement for FY 93/94 is provided in Table 4. Two points should be considered when examining these data. First, income is estimated, based upon the number of people who applied for certification, took the various tests, became certified, were recertified, or were issued civil penalties. This was necessary because actual income to the Board is lumped with other underground tanks income in the Department's accounting system.

Second, the income shown for recertification varies widely on a biennial basis. Recertification is required every two (2) years, and this income for this year reflects the vast majority of tank installers becoming recertified this year. It is therefore expected that this figure will follow two (2) year cycles of being high and low.

Respectfully Submitted,

Gerald R. LaPointe, Sr.,
Chairman

Income (Estimated)	
Applications/Initial Written Examinations	\$825.00
Apprenticeship Variances	\$0.00
Apprenticeship Renewals	\$3,450.00
Sales of Study Packets	\$75.00
On-Site Examination Fees	\$0.00
Final Exams/New Certifications	\$1,750.00
Recertifications	\$24,600.00
Late fees/recertification	\$0.00
Civil Penalties	\$7,250.00
Subtotal	\$37,950.00
Expenses: Account 014 06A 1520 44x	
Personal Services	\$58,823.80
Fringe	\$15,647.50
Contractual	\$14.49
Travel	\$712.82
Supplies	\$1,312.92
Other	\$4,970.39
Sta-Cap	\$1,442.83
Subtotal	\$82,924.75
Grand Total	(\$44,974.75)

Table 4. Financial statement for the Board of Underground Tank Installers, July 1, 1993 through June 30, 1994.

Appendix A

Maine Board of Underground Storage Tank Installers
Summary of FY 93/94 Enforcement Actions (By Violation)

Principle Violation	Year	No.	Date Received	Action Date	Result	Fine	Days Susp.	Days Probation	Other Penalty	Date_Closed
06-096CMR118.3	1994	9	3/17/94	4/14/94	Order	\$250			Other count	5/27/94
06-096CMR691.4.C	1994	9	3/17/94	4/14/94	Order	\$250			Other count	5/27/94
06-096CMR691.5.A.2.B	1994	9	3/17/94		Dismissed					5/20/94
06-096CMR691.5.A.3.a	1994	9	3/17/94	4/14/94	Order	\$250			Other count	5/27/94
06-096CMR691.5.A.3.a	1994	9	3/17/94	4/14/94	Dismissed					4/14/94
06-096CMR691.5.A.3.a	1994	9	3/17/94	4/14/94	Dismissed					5/20/94
06-096CMR691.5.A.4.a(i)	1994	9	3/17/94	4/14/94	Dismissed					4/14/94
06-096CMR691.5.B.3	1994	9	3/17/94	4/14/94	Order	\$250			Other count	5/27/94
06-096CMR691.5.B.4.a	1994	9	3/17/94	4/14/94	Order	\$250			Other count	5/27/94
06-096CMR691.5.D.11	1994	9	3/17/94	4/14/94	Dismissed					5/20/94
06-096CMR691.6.D.2	1993	13	11/23/92	6/11/93	CA				Repair	7/16/93
06-096CMR691App.C.1-2.	1994	9	4/6/94	4/14/94	Order	\$250			Other count	5/27/94
06-096CMR691App.C.5	1994	9	4/6/94	4/14/94	Order	\$250			Other count	5/27/94
06-096CMR691App.D.2	1993	13	11/23/92	6/11/93	CA	\$650			Repair	7/16/93
06-096CMR691App.J.6.c	1993	25	4/30/93	6/11/93	Order			180	Ed., Warning	7/19/93
06-481CMR1.4.A(2)(a)	1994	9	3/31/94	4/14/94	Dismissed					5/20/94
06-481CMR1.4.A(2)(b)	1994	9	3/31/94	4/14/94	Dismissed					5/20/94
06-481CMR1.4.B	1994	2	9/30/93	10/28/93	CA	\$250		180	Ed.	11/12/93
06-481CMR1.4.B	1994	4	10/19/93	10/28/93	CA			180	Ed.	11/23/93
32MRSA10014.3	1994	8	2/9/94	3/11/94	CA	\$250			Ed; \$10 late	3/11/94
38MRSA563.1.A	1993	14	11/23/92	6/11/93	CA	\$200				7/16/93
38MRSA563.1.A	1993	26	6/10/93	12/15/93	Order	\$500	45			12/17/93
38MRSA563.1.A	1994	3	10/15/93	10/28/93	CA	\$250				11/12/93
38MRSA563.1.A	1994	6	12/28/93	1/21/94	CA				Register	3/11/94
38MRSA563.3	1993	26	8/31/93	12/15/93	Order	\$500	45			12/17/93
38MRSA564.1.A	1993	2	8/19/92	6/17/94	Dismiss					6/17/94
38MRSA564.1.A	1994	9	3/17/94	4/14/94	Order	\$250			Cls 3 renew	5/27/94

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38MRSA564.1.B	1994	9	3/31/94	4/14/94	Order	\$250		Other count	5/27/94
38MRSA565.1.A	1993	14	11/23/92	6/11/93	CA	\$650		Repair	7/16/93
38MRSA570-K.3.A	1994	5	11/2/93	12/15/94	Order	\$1,500	90		12/17/93
38MRSA570-K.3.A	1994	5	11/2/93	11/19/93	Order			Other count	12/17/93
40CFR280.20(c)	1994	9	3/31/94	4/14/94	Order	\$250		Other count	5/27/94
40CFR280.43(g)	1994	9	3/31/94	4/14/94	Dismissed				4/14/94